

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
REGINA AULETTA, ON BEHALF OF HERSELF
AND ALL OTHERS SIMILARLY SITUATED,

Plaintiff,
-against-

DOCKET NO.

LVNV FUNDING, LLC, ALLIED INTERSTATE,
LLC AND SHERMAN FINANCIAL GROUP, LLC,

Defendant.

-----X

NOTICE OF REMOVAL OF ACTION

TO: THE CLERK OF THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

PLEASE TAKE NOTICE that pursuant to 28 U.S.C. section 1441, et seq. defendants, LVNV FUNDING, LLC (hereinafter referred to as "LVNV") and SHERMAN FINANCIAL GROUP, LLC (hereinafter referred to as "SHERMAN"), hereby remove this civil action from the Supreme Court of the State of New York, County of Suffolk, to the United States District Court for the Eastern District of New York.

I. PROCEEDINGS TO DATE

On or about March 8, 2017, plaintiff, REGINA AULETTA, filed a summons with notice, dated March 8, 2017, in the civil action captioned REGINA AULETTA ON BEHALF OF HERSELF AND ALL OTHERS SIMILARLY SITUATED against LVNV FUNDING, LLC ALLIED INTERSTATE, LLC, AND SHERMAN FINANCIAL GROUP, LLC, Index No. 604349/2017, in

the Supreme Court of the State of New York, County of Suffolk. Defendants were served with the summons with notice on July 7, 2017. The complaint alleges a violation of the Fair Debt Collection Practices Act, and plaintiff seeks statutory and actual damages as well as attorney fees and other relief.

Copies of all pleadings and other papers plaintiff previously filed with the Supreme Court, Suffolk County are annexed hereto as Exhibit "A," as required by 28 U.S.C. Section 1446.

II. GROUND FOR REMOVAL

The Court has original jurisdiction over this action because this action arises under a Law of the United States. See 28 U.S.C. Section 1331. This action arises under the Fair Debt Collection Practices Act, 15 U.S.C. Section 1692 et seq. (See Exhibit "A") Accordingly, according to 28 U.S.C. Section 1331, this Court has original jurisdiction over this case.

In addition, the co-defendant Allied Interstate, LLC consents to the removal of this action to Federal Court. Consent was given by Nana Japaridze, their attorney, on July 27, 2017.

III. VENUE

Plaintiff's action is pending in the Supreme Court of the State of New York, County of Suffolk, which is within this

judicial district and division. 28 U.S.C. Section 112(c). The United States District Court for the Eastern District of New York is the District Court and Division within which LVNV and SHERMAN may remove this action, pursuant to 28 U.S.C. Section 1441(a) and within which defendant must file this Notice of Removal, pursuant to 28 U.S.C. Section 1446(a).

IV. TIMELINESS

This Notice of Removal is timely filed. Defendant has acknowledged service of a copy of the summons with notice. Plaintiff has not filed any Affidavit of Service. This notice of Removal complies with 28 U.S.C. Section 1446(b).

V. NOTICE

Pursuant to 28 U.S.C. Section 1446(b), defendants LVNV FUNDING, LLC AND SHERMAN FINANCIAL GROUP, LLC are simultaneously filing a copy of this Notice of Removal with the Supreme Court of the State of New York, County of Suffolk. Plaintiff's counsel is also being served with a copy of this Notice of Removal.

VI. CONCLUSION

For the foregoing reasons, LVNV FUNDING, LLC AND SHERMAN FINANCIAL GROUP, LLC respectfully request that this action, previously pending in the Supreme Court of the State of New York, County of Suffolk, be removed to this Court, and that this

Court proceed as if this case had been originally initiated in this Court.

Dated: New City, NY
July 31, 2017

Respectfully submitted,



ARTHUR SANDERS, ESQ. (AS-1210)
BARRON & NEWBURGER, P.C.
Attorneys for defendant
30 South Main Street
New City, NY 10956
845-499-2990

EXHIBIT A

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SUFFOLK

REGINA AULETTA,
ON BEHALF OF HERSELF AND ALL OTHERS
SIMILIARLY SITUATED,

INDEX NO. 604349/2017
FILING DATE: 03/08/17

-against-

Plaintiff,

SUMMONS
WITH NOTICE

LVNV FUNDING LLC,
ALLIED INTERSTATE, LLC, AND
SHERMAN FINANCIAL GROUP, LLC,

Plaintiff designates
Suffolk County
as the place of trial

Defendants.

The basis of the venue is
Plaintiff's residence

To the above named Defendant(s):

You are hereby summoned to answer the complaint in this action and to serve a copy of your answer, or if the complaint is not served with the summons, to serve a notice of appearance, on the plaintiff's attorney within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if the summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the sum of \$505,000.00 with interest thereon from the 9th day of March 2016, together with the costs of this action and attorney's fees.

TAKE NOTICE that the object of this action and the relief sought is to recover damages for violations of 15 USC 1692, et. seq. based on Exhibit A NY and that in case of your failure to answer, judgment will be taken against you for the sum of \$505,000.00 with interest thereon from the 9th day of March 2017, together with the costs of this action and attorney's fees.

Dated: March 8, 2017

/s/

Mitchell L. Pashkin, Attorney For Plaintiff
775 Park Avenue, Ste., 255, Huntington, NY 11743, (631) 335-1107



866-465-3710

March 09, 2016

Regina Auletta
209 Front Ave
Brentwood NY 11717-5923

Re: Original Creditor: WebBank Account No. *****7547
Amount Owed: \$264.86
Date Of Delinquency: Oct 13, 2014
Current Creditor: LVNV Funding LLC Account No. *****6347
Reference No.: 570012166078

Regina Auletta

We are a debt collection company and we have been contracted with on behalf of LVNV Funding LLC to collect the debt noted above. This is an attempt to collect a debt and any information obtained will be used for that purpose.

LVNV Funding LLC is willing to accept payment in the amount of \$166.86 in settlement of this debt. You can take advantage of this settlement offer if we receive payment of this amount or if you make another mutually acceptable payment arrangement within 30 days from the date of this letter. We are not obligated to renew this offer.

To make a payment, please telephone us at 866-465-3710 or mail your payment using the coupon on the reverse side of this letter. We process checks electronically and your checking account will be debited on the day we receive your payment. Your check will not be returned.

We look forward to receiving your payment.

Sincerely,

Allied Interstate LLC

NYSCEF DOC. NO. 2

7525 West Campus Road, New Albany, OH
(Do not send payments or correspondence to this address)

RECEIVED NYSCEF: 03/08/2017

If you have a question or comment, please (i) write us at P.O. Box 361445, Columbus, OH 43236; (ii) email us at: advocacygroup@allied-interstate.com, or, (iii) call us toll-free at (800) 811-4214 between 9:00 AM Eastern Time and 6:00 PM Eastern Time Monday through Friday.

Correspond with Allied (other than payments) at: Allied Interstate LLC, PO Box 361445, Columbus, OH 43236

RETURN MAIL ONLY

(Detach and return with payment)

P.O.Box 1954

Southgate, MI 48195-0954

5700121660783

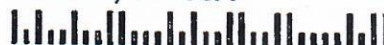


6001-0000111



Regina Auletta
209 Front Ave
Brentwood NY 11717-5923

Allied Interstate LLC
Po Box 361445
Columbus, OH 43236



Index No. 604349/2017

REGINA AULETTA,
ON BEHALF OF HERSELF AND ALL OTHERS
SIMILIARLY SITUATED,

Plaintiff(s) ,

-VS-

LVNV FUNDING LLC,
ALLIED INTERSTATE, LLC, AND
SHERMAN FINANCIAL GROUP, LLC,

Defendant(s) .

SUMMONS WITH NOTICE

Mitchell L. Pashkin certifies that, to the best of his knowledge, information and belief, formed after an inquiry reasonable under the circumstances, the presentation of the annexed paper(s) or the contentions therein are not frivolous as defined in 22 NYCRR 130-1.1.(c).

/s/

Mitchell L. Pashkin
Attorney For Plaintiff(s)
775 Park Avenue, Ste., 255
Huntington, NY 11743
(631) 335-1107

State of New York - Department of State
Receipt for Service

Receipt #: 201707070360

Date of Service: 07/07/2017

Service Company: 02 ALEXANDER POOLE & CO., INC. - 02

Cash #: 201707070323

Fee Paid: \$40 - DRAWDOWN

Service was directed to be made pursuant to: SECTION 303 OF THE LIMITED
LIABILITY COMPANY LAW

Party Served: ALLIED INTERSTATE LLC

Plaintiff/Petitioner:
AULETTA, REGINA

Service of Process Address:
C/O CT CORPORATION SYSTEM
111 EIGHTH AVENUE
NEW YORK, NY 10011

Secretary of State
By SUE ZOUKY

SUPREME COURT OF THE STATE OF NEW YORK COUNTY OF SUFFOLK

RECEIVED NYSCEF: 07/07/2017
 Index No. 604349/2017

REGINA AULETTA

Plaintiff(s) Petitioner(s)

against

LVNV FUNDING LLC et al

Defendant(s) Respondent(s)

filed 3/8/17

Calendar No.

AFFIDAVIT
 OF
 SERVICE

STATE OF DELAWARE, COUNTY OF: NEW CASTLE

Ss.:

The undersigned, being sworn, says: Deponent is not a party herein, is over 18 years of age and resides at Wilmington, DE

On 7/6/17

at 4:15 PM

.M., at C/O CORPORATION SERVICE CO. 251 LITTLE FALLS DRIVE WILMINGTON, DE 19808

deponent served the within

- ☐ summons and complaint
☐ subpoena duces tecum
☐ citation

☒ SUMMONS WITH NOTICE & NOTICE OF COMMENCEMENT OF ACTION SUBJECT TO
 MANDATORY ELECTRONIC FILING

on SHERMAN FINANCIAL GROUP LLC

☐ defendant ☒ witness hereinafter called therein
☐ -espondent the recipient lamed

INDIVIDUAL

1. ☐

by delivering a true copy of each to said recipient personally; deponent knew the person so served to be the person described as said recipient therein.

CORPORATION

2. ☒

a DELAWARE corporation, by delivering thereat a true copy of each to LYNANNE GARES (authorized person at the registered agent)

personally, deponent knew said corporation so served to be the corporation, described in same as said recipient and knew said individual to be (managing agent)

SUITABLE
 AGE PERSON

3. ☐

by delivering thereat a true copy of each to a person of suitable age and discretion. Said premises is recipient's ☐ actual place of business ☐ dwelling place ☐ usual place of abode within the state.

AFFIXING TO
 DOOR, ETC.

4. ☐

by affixing a true copy of each to the door of said premises, which is recipient's ☐ actual place of business ☐ dwelling place ☐ usual place of abode within the state. Deponent was unable, with due diligence to find recipient or a person of suitable age and discretion, thereat, having called there

MAILING TO
 RESIDENCE
 USE WITH 3 OR 4
 5A. ☐

Deponent talked to at said premises who stated that recipient ☐ lived ☐ worked there. Within 20 days of such delivery or affixing, deponent enclosed a copy of same in a postpaid envelope properly addressed to recipient at recipient's last known residence, at and deposited

MAILING TO
 BUSINESS
 USE WITH 3 OR 4
 5B. ☐

said envelope in an official depository under exclusive care and custody of the U.S. Postal Service within New York State. Within 20 days of such delivery or affixing, deponent enclosed a copy of same in a first class post paid envelope properly addressed to recipient at recipient's actual place of business, at

in an official depository under the exclusive care and custody of the U.S. Postal Service within New York State. The envelope bore the legend "Personal and Confidential" and did not indicate on the outside thereof, by return address or otherwise, that the communication was from an attorney or concerned an action against the recipient.

DESCRIPTION

☐

☐ Male ☒ White Skin ☐ Black Hair ☐ White Hair ☐ 14-20 Yrs. ☐ Under 5' ☐ Under 100 Lbs.
☒ Female ☐ Black Skin ☒ Brown Hair ☐ Balding ☐ 21-35 Yrs. ☐ 5'0"-5'3" ☐ 100- 130 Lbs.
☐ Yellow Skin ☐ Blonde Hair ☐ Mustache ☒ 36-50 Yrs. ☒ 5'4"-5'8" ☐ 131-160 Lbs.
☐ Brown Skin ☐ Gray Hair ☐ Beard ☐ 51-65 Yrs. ☐ 5'9"-6'0" ☒ 161-200 Lbs.
☐ Red Skin ☐ Red Hair ☐ Glasses ☐ Over 65 Yrs. [- I Over 6' ☐ Over 200 Lbs.

☐ Other identifying features:

WITNESS
 FEES

☐

\$ the authorizing traveling expenses ☐ was paid (tendered) to the recipient
 and one days' witness fee: ☐ was mailed to the witness with subpoena copy.

MILITARY
 SERVICE

☐

I asked the person spoken to whether recipient was in active military service of the United States or of the State of New York in any capacity whatever and received a negative reply. Recipient wore ordinary civilian clothes and no military uniform. The source of my information and the grounds of my belief are the conversations and observations above narrated. Upon information and belief I aver that the recipient is not in military service of New York State or of the United States as that term is defined in either the State or in the Federal statutes.

Sworn to before me on 7/6/17

DENORRIS ANGELO BRITT
 NOTARY PUBLIC
 STATE OF DELAWARE
 My Commission Expires May 16, 2018

License No.
 KEVIN S. DUNN
 BRANDYWINE PROCESS SERVERS, LTD
 800-952-2288

NYSCEF DOC. NO. 6

RECEIVED NYSCEF: 07/11/2017

Attorney(s)

Index # **604349/17**

Purchased/Filed: March 8, 2017

State of New York

Court: Supreme

County: Suffolk

AFFIDAVIT OF SERVICE - SECRETARY OF STATE

Regina Auletta on Behalf of herself and all others similarly situated

against

LVNV Funding LLC, et al

Defendant

STATE OF NEW YORK)
COUNTY OF ALBANY) SS
CITY OF ALBANY)

DESCRIPTION OF PERSON SERVED:

Approx. Age: 55 Yrs.

Weight: 120 Lbs. Height: 5' 0" Sex: Female Color of skin: White

Hair color: Brown Other: _____

Robert Guyette

, being duly sworn, deposes and says: deponent is over

the age of eighteen (18) years; that on July 7, 2017, at 12:26 PM, at the office of the

Secretary of State of the State of NY located at 99 Washington Ave, 6th Fl, Albany, New York 12231 deponent served
Summons with Notice & Notice of Commencement of Action Subject to Mandatory Electronic Filing

on

Allied Interstate LLC

the Defendant in this action, by delivering to and leaving with _____

Sue Zouky

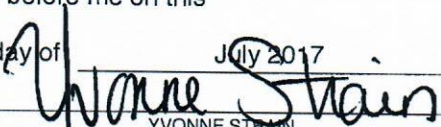
AUTHORIZED AGENT in the Office of the Secretary of State, of the State of New York, personally at the
Office of the Secretary of State of the State of New York, two (2) true copies thereof and that at the time of


making such service, deponent paid said Secretary of State a fee of 40 dollars; That said service
was made pursuant to Section LIMITED LIABILITY COMPANY LAW §303.

Deponent further says that deponent knew the person so served as aforesaid to be the agent in the Office
of the Secretary of State of the State of New York, duly authorized to accept such service on behalf of said
defendant.

Sworn to before me on this

7th day of July 2017


YVONNE STRAIN
NOTARY PUBLIC, State of New York
01ST6314054, Schenectady
Commission Expires November 3, 2018



Robert Guyette

Invoice-Work Order # 1715696
Attorney File # **Auletta**